## IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA

IN RE: PHILIPS RECALLED CPAP,

Master Docket: Misc. No. 21-mc-1230-JFC

**BI-LEVEL PAP, AND MECHANICAL** 

MDL No. 3014

VENTILATOR PRODUCTS LITIGATION

SHORT FORM COMPLAINT FOR

This Document Relates to: PERSONAL INJURIES, DAMAGES,

Marilyn Faye Scott, as Personal Representative for

AND DEMAND FOR JURY TRIAL

the Estate of Clara Faye Scott, Deceased

DIRECT FILED PURSUANT TO PRETRIAL ORDER #28

Plaintiff(s) incorporate(s) by reference the Amended Master Long Form Complaint for Personal Injuries, Damages and Demand for Jury Trial filed in In re Philips Recalled CPAP, Bi-Level PAP, and Mechanical Ventilator Products Litigation, MDL No. 3014, Master Docket Misc. No. 21-mc-1230 (the "Master Long Form Complaint"). This Short Form Complaint adopts the allegations, claims, and requested relief as set forth in the Master Long Form Complaint. As necessary herein, Plaintiff(s) may include: (a) additional claims and allegations against Defendants; and/or (b) additional claims and allegations against other Defendants not listed in the Master Long Form Complaint.

Plaintiff(s) further allege(s) as follows:

## I. **DEFENDANTS**

1. Plaintiff(s) name(s) the following Defendants in this action:

✓ Koninklijke Philips N.V.

Philips North America LLC.

Philips RS North America LLC.

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	Philips Holding USA Inc.
	Philips RS North America Holding Corporation.
	Polymer Technologies, Inc.
	Polymer Molded Products LLC.
PL	AINTIFF(S)
2.	Name of Plaintiff(s): Marilyn Faye Scott
3.	Name of spouse of Plaintiff (if loss of consortium claim is being made):  Marilyn Faye Scott, Daughter
4.	Name and capacity (i.e., executor, administrator, guardian, conservator, etc.) of other Plaintiff, if any:  Marilyn Faye Scott, Personal Representative of the Estate of Clara Faye Scott
5.	State(s) of residence of Plaintiff(s) (if the Recalled Device user is deceased residence at the time of death):  Texas
<b>DES</b> 6.	Identify the forum (United States District Court and Division) in which the Plaintiff would have filed in the absence of direct filing:
	United States District Court for the Eastern District of Texas

## IV. USE OF A RECALLED DEVICE

7. Plaintiff used the following Recalled Device(s):

E30 (Emergency Use Authorization)	Dorma 500
DreamStation ASV	REMstar SE Auto
DreamStation ST, AVAPS	Trilogy 100
SystemOne ASV4	Trilogy 200
C-Series ASV	Garbin Plus, Aeris, LifeVent
C-Series S/T and AVAPS	A-Series BiPAP Hybrid A30 (not marketed
OmniLab Advanced +	in U.S.)
SystemOne (Q-Series)	A-Series BiPAP V30 Auto
✓ DreamStation	A-Series BiPAP A40
DreamStation Go	A-Series BiPAP A30
Dorma 400	Other Philips Respironics Device; if other,
	identify the model:
V. INJURIES	
	physical injuries as a result of using a Recalled ant symptoms and consequences associated
COPD (new or worsening)	
Asthma (new or worsening	)
Pulmonary Fibrosis	
Other Pulmonary Damage/	Inflammatory Response
✓ Cancer Lung Cancer	(specify cancer)
✓ Kidney Damage	
Liver Damage	

VI.

	Heart Damage	
	Death	
	✓ Other (specify)	
	Acute respiratory	failure; pulmonary embolism; Covid-19
CAI	USES OF ACTION/E	DAMAGES
9.	in the Master Long	Philips N.V., Plaintiff(s) adopt(s) the following claims asserted a Form Complaint for Personal Injuries, Damages and Demand the allegations and prayer for relief with regard thereto, as set
	✓ Count I:	Negligence
	✓ Count II:	Strict Liability: Design Defect
	✓ Count III:	Negligent Design
	<b>✓</b> Count IV:	Strict Liability: Failure to Warn
	Count V:	Negligent Failure to Warn
	✓ Count VI:	Negligent Recall
	Count VII:	Battery
	✓ Count VIII:	Strict Liability: Manufacturing Defect
	✓ Count IX:	Negligent Manufacturing
	✓ Count X:	Breach of Express Warranty
	✓ Count XI:	Breach of the Implied Warranty of Merchantability
	✓ Count XII:	Breach of the Implied Warranty of Usability
	Count XIII:	Fraud
	Count XIV:	Negligent Misrepresentation

Count XV:	Negligence Per Se
✓ Count XVI:	Consumer Fraud and/or Unfair and Deceptive Practices Under State Law
Count XVII:	Unjust Enrichment
Count XVIII:	Loss of Consortium
Count XIX:	Survivorship and Wrongful Death
Count XX:	Medical Monitoring
Count XXI:	Punitive Damages
Count XXII:	Other [specify below]
W	
asserted in the Mast	h America LLC, Plaintiff(s) adopt(s) the following claims er Long Form Complaint for Personal Injuries, Damages and al, and the allegations and prayer for relief with regard thereto,  Negligence
asserted in the Mast Demand for Jury Tria as set forth therein:	er Long Form Complaint for Personal Injuries, Damages and al, and the allegations and prayer for relief with regard thereto,
asserted in the Mast Demand for Jury Tria as set forth therein:  Count I:	er Long Form Complaint for Personal Injuries, Damages and al, and the allegations and prayer for relief with regard thereto,  Negligence
asserted in the Mast Demand for Jury Tria as set forth therein:  Count I:  Count II:	er Long Form Complaint for Personal Injuries, Damages and al, and the allegations and prayer for relief with regard thereto,  Negligence  Strict Liability: Design Defect
asserted in the Mast Demand for Jury Tria as set forth therein:  Count I:  Count II:  Count III:	er Long Form Complaint for Personal Injuries, Damages and al, and the allegations and prayer for relief with regard thereto,  Negligence  Strict Liability: Design Defect  Negligent Design
asserted in the Mast Demand for Jury Tria as set forth therein:  Count I:  Count II:  Count III:  Count IV:	er Long Form Complaint for Personal Injuries, Damages and al, and the allegations and prayer for relief with regard thereto,  Negligence  Strict Liability: Design Defect  Negligent Design  Strict Liability: Failure to Warn
asserted in the Mast Demand for Jury Tria as set forth therein:  Count I:  Count II:  Count III:  Count IV:  Count IV:	er Long Form Complaint for Personal Injuries, Damages and al, and the allegations and prayer for relief with regard thereto,  Negligence  Strict Liability: Design Defect  Negligent Design  Strict Liability: Failure to Warn  Negligent Failure to Warn
asserted in the Mast Demand for Jury Tria as set forth therein:  Count I:  Count II:  Count III:  Count IV:  Count IV:  Count V:	er Long Form Complaint for Personal Injuries, Damages and al, and the allegations and prayer for relief with regard thereto,  Negligence  Strict Liability: Design Defect  Negligent Design  Strict Liability: Failure to Warn  Negligent Failure to Warn  Negligent Recall
asserted in the Mast Demand for Jury Tria as set forth therein:  Count I:  Count II:  Count III:  Count IV:  Count IV:  Count VI:  Count VI:	er Long Form Complaint for Personal Injuries, Damages and al, and the allegations and prayer for relief with regard thereto,  Negligence  Strict Liability: Design Defect  Negligent Design  Strict Liability: Failure to Warn  Negligent Failure to Warn  Negligent Recall  Battery

Count X:	Breach of Express Warranty
✓ Count XI:	Breach of the Implied Warranty of Merchantability
✓ Count XII:	Breach of the Implied Warranty of Usability
Count XIII:	Fraud
Count XIV:	Negligent Misrepresentation
Count XV:	Negligence Per Se
Count XVI:	Consumer Fraud and/or Unfair and Deceptive Practices Under State Law
Count XVII:	Unjust Enrichment
Count XVIII:	Loss of Consortium
Count XIX:	Survivorship and Wrongful Death
Count XX:	Medical Monitoring
Count XXI:	Punitive Damages
Count XXII:	Other [specify below]
asserted in the Maste	orth America LLC, Plaintiff(s) adopt(s) the following claims er Long Form Complaint for Personal Injuries, Damages and al, and the allegations and prayer for relief with regard thereto,
Count I:	Negligence
✓ Count II:	Strict Liability: Design Defect
✓ Count III:	Negligent Design

Strict Liability: Failure to Warn

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Count IV:

✓ Count V:	Negligent Failure to Warn
✓ Count VI:	Negligent Recall
✓ Count VII:	Battery
Count VIII:	Strict Liability: Manufacturing Defect
Count IX:	Negligent Manufacturing
Count X:	Breach of Express Warranty
Count XI:	Breach of the Implied Warranty of Merchantability
Count XII:	Breach of the Implied Warranty of Usability
Count XIII:	Fraud
Count XIV:	Negligent Misrepresentation
Count XV:	Negligence Per Se
Count XVI:	Consumer Fraud and/or Unfair and Deceptive Practices Under State Law
Count XVII:	Unjust Enrichment
Count XVIII:	Loss of Consortium
Count XIX:	Survivorship and Wrongful Death
<b>✓</b> Count XX:	Medical Monitoring
Count XXI:	Punitive Damages
Count XXII:	Other[specify below]

As to Philips Holding USA Inc., Plaintiff(s) adopt(s) the following claims asserted

12.

	Form Complaint for Personal Injuries, Damages and Demand he allegations and prayer for relief with regard thereto, as set
Count I:	Negligence
Count II:	Strict Liability: Design Defect
Count III:	Negligent Design
Count IV:	Strict Liability: Failure to Warn
Count V:	Negligent Failure to Warn
Count VI:	Negligent Recall
Count VII:	Battery
Count VIII:	Strict Liability: Manufacturing Defect
Count IX:	Negligent Manufacturing
Count X:	Breach of Express Warranty
Count XI:	Breach of the Implied Warranty of Merchantability
Count XII:	Breach of the Implied Warranty of Usability
Count XIII:	Fraud
Count XIV:	Negligent Misrepresentation
Count XV:	Negligence Per Se
✓ Count XVI:	Consumer Fraud and/or Unfair and Deceptive Practices Under State Law
Count XVII:	Unjust Enrichment
Count XVIII:	Loss of Consortium
Count XIX:	Survivorship and Wrongful Death
Count XX:	Medical Monitoring

Count XXI:	Punitive Damages
Count XXII:	Other [specify below]
following claims ass	North America Holding Corporation, Plaintiff(s) adopt(s) the serted in the Master Long Form Complaint for Personal Injuries, and for Jury Trial, and the allegations and prayer for relief with et forth therein:
Count I:	Negligence
Count II:	Strict Liability: Design Defect
Count III:	Negligent Design
Count IV:	Strict Liability: Failure to Warn
Count V:	Negligent Failure to Warn
Count VI:	Negligent Recall
Count VII:	Battery
Count VIII:	Strict Liability: Manufacturing Defect
Count IX:	Negligent Manufacturing
Count X:	Breach of Express Warranty
Count XI:	Breach of the Implied Warranty of Merchantability
Count XII;	Breach of the Implied Warranty of Usability
Count XIII:	Fraud
Count XIV:	Negligent Misrepresentation
Count XV:	Negligence Per Se

Count XVI:	Consumer Fraud and/or Unfair and Deceptive Practices Under State Law
Count XVII:	Unjust Enrichment
Count XVIII:	Loss of Consortium
Count XIX:	Survivorship and Wrongful Death
Count XX:	Medical Monitoring
Count XXI:	Punitive Damages
Count XXII:	Other [specify below]
	echnologies, Inc., Plaintiff(s) adopt(s) the following claims ter Long Form Complaint for Personal Injuries, Damages and
Demand for Jury Tr	ial, and the allegations and prayer for relief with regard thereto,
as set forth therein:	
✓ Count I:	Negligence
Count II:	Strict Liability: Design Defect
✓ Count III:	Negligent Design
Count IV:	Strict Liability: Failure to Warn
<b>✓</b> Count V:	
	Negligent Failure to Warn
Count VIII:	Negligent Failure to Warn  Strict Liability: Manufacturing Defect
✓ Count VIII: ✓ Count IX:	
	Strict Liability: Manufacturing Defect
Count IX:	Strict Liability: Manufacturing Defect Negligent Manufacturing

14.

Count XVIII:	Loss of Consortium
Count XIX:	Survivorship and Wrongful Death
Count XX:	Medical Monitoring
Count XXI:	Punitive Damages
Count XXII:	Other [specify below]
asserted in the Mast	ded Products LLC, Plaintiff(s) adopt(s) the following claims are Long Form Complaint for Personal Injuries, Damages and al, and the allegations and prayer for relief with regard thereto,
as set forth therein:	
Count I:	Negligence
Count II:	Strict Liability: Design Defect
✓ Count III:	Negligent Design
✓ Count IV:	Strict Liability: Failure to Warn
Count V:	Negligent Failure to Warn
Count VIII:	Strict Liability: Manufacturing Defect
Count IX:	Negligent Manufacturing
Count XIII:	Fraud
Count XIV:	Negligent Misrepresentation
Count XVII:	Unjust Enrichment
Count XVIII:	Loss of Consortium
Count XIX:	Survivorship and Wrongful Death
Count XX:	Medical Monitoring

Count XXI:	Punitive Damages
Count XXII:	Other [specify below]
Complaint for Perso above, the additiona Plaintiff(s) assert(s)	against the Defendants identified in the Master Long Form and Injuries, Damages and Demand for Jury Trial are alleged al facts, if any, supporting these allegations must be pleaded. It the following additional factual allegations against the did in the Master Long Form Complaint for Personal Injuries, and for Jury Trial:
Damages and Demai	nd for Jury Trial:
Plaintiff(s) contend(	(s) that additional parties may be liable or responsible for salleged herein. Such additional parties, who will be hereafter
eferred to as Defer citizenship):	ndants, are as follows (must name each Defendant and its

18. Plaintiff(s) assert(s) the following additional claims and factual allegations against other Defendants named in Paragraph 16 above:

WHEREFORE, Plaintiff(s) pray(s) for relief and judgment against Defendants and all such further relief that this Court deems equitable and just as set forth in the Master Long Form Complaint for Personal Injuries, Damages and Demand for Jury Trial and any additional relief to which Plaintiff(s) may be entitled.

Date: Aug 23 2023

/s/ Darren Wolf

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ATTORNEY FOR PLAINTIFF(S)